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Supreme Court of the United States

October Term, 1929

No. 590 17

KARL HERBRING
Appellant,

vs.

CLARE A. LEE,
As Insurance Commissioner of the State of Oregon,
Appellee.

APPELLEE'S BRIEF

I. H. VAN WINKLE,
Attorney General of the
State of Oregon,

WILLIS S. MOORE,
Assistant Attorney General of the
State of Oregon,

Attorneys for Appellee.

GUY E. KELLY,
Attorney for Appellant.

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APPELLEE'S BRIEF

Reference to Official Report of Opinion Below

The report of this case in the lower court will be found in 126 Or., beginning at page 588, 269 Pac. 236. The date of the judgment to be reviewed is July 17, 1928 (R. 19).

Jurisdiction of This Court

A statement of the appellant particularly disclosing the basis on which it is contended this court has jurisdiction to review on appeal the judgment or decree below and a statement of appellee against the jurisdiction asserted by appellant have been filed herein.

STATEMENT

In the lower court this case was submitted upon a stipulation of facts (R. 3) from which it appears that the appellant, a practicing attorney in the city of Portland, Oregon, applied to the defendant Insurance Commissioner of the State of Oregon for a license to represent the Northwestern National Insurance Company of Milwaukee, Wisconsin (R. 4), as its agent in the city of Portland, Oregon; that at the date of said application said company had two agents then licensed to represent it in said city; that said application of appellant was denied for the reason that the law required such applications to be made by the company which such agent was to represent (R. 7), and for the reason that, although the said Northwestern National Insurance Company made application for the appointment of appellant as its agent, it refused to pay the fee of $500 required by subdivision 8 of section 6388, Oregon Laws, to be paid by such a company as a condition precedent to its right to appoint a third agent to represent it in a city in the state of Oregon having more than 50,000 inhabitants according to the last federal census. (R. 9 and 13).

The case is brought to this court upon an assignment that the Supreme Court of Oregon erred in holding that subdivision 8 of section 6388, Oregon Laws, does not abridge the rights of the appellant guaranteed by section 1 of the 14th amendment to the Constitution of the United States. (R. 20).

It will be noted upon examination of the stipulation of facts that the theory upon which the action was

brought in the lower court is that appellant was entitled to a license to act as an additional agent in the city of Portland, Oregon, for the Northwestern National Insurance Company of Milwaukee, Wisconsin, upon the filing of an application in the manner required by section 6333, Oregon Laws, and the payment of the annual license fee of $2 required by that section.

Copious extracts from the laws of the state of Oregon relating to insurance agents, including the manner of their appointment, are printed in an appendix (pages 77 to 140) to appellant's opening brief herein. The parts of said section 6333 which appellee deems material to the questions presented in this appeal are printed as "Appendix A" to this brief.

The said application of appellant was denied by the appellee upon the ground and for the reason that the application having been to represent the Northwestern National Insurance Company of Milwaukee, Wisconsin (R. 4), the appointment of such an agent is governed by section 6388, Oregon Laws, the parts of which that are deemed by appellee to be material to the question presented herein are printed as "Appendix B" to this brief.

The said Northwestern National Insurance Company thereafter made application for the appointment of appellant to represent it as agent in Portland, Oregon (R. 7), but said application was denied by appellee for the reason that it could not be granted except upon the payment of the said additional fee of $500, which payment the said insurance company refused to make.

SUMMARY

At page 14 of appellant's opening brief herein it is said that the section which is attacked in this case is section 6388, Oregon Laws, and that subdivisions 1, 4, 7 and 8 contain the provisions of which appellant complains. The question presented to this court is therefore limited to whether or not the provision of section 6388, Oregon Laws, prohibiting the licensing of a third agent to represent a foreign fire insurance company in a city of the state of Oregon having more than 50,000 inhabitants, without the payment of a fee of $500, deprives the appellant of any right guaranteed by the 14th amendment of the Constitution of the United States.

POINTS AND AUTHORITIES

I

Appellant has no constitutional right to act as agent for a foreign insurance company which has not complied with conditions precedent to its right to appoint such an agent to represent it in the state of Oregon.

Paul v. Virginia, 8 Wall. 168, 19 L. Ed. 357.

Hooper v. State of California, 155 U. S. 648, 39 L. Ed. 297, 301.

Nutting v. Massachusetts, 183 U. S. 553, 46 L. Ed. 324, 327.

Bothwell v. Buckbee Mears Co., 275 U. S. 274, 277, 72 L. Ed. 277, 279.

Argument

Appellant's second contention in this case is stated on page 18 of his brief to be:

> Second, that the statute is in reality not a corporate regulation, but an unconstitutional attempt to deprive the individual of his common law right to follow an inherently lawful occupation, in that its purpose and effect is to do this rather than to regulate the business of the corporation.

And it was upon that theory that the case was argued by plaintiff (appellant herein) in the lower court.

Subsections 7 and 8 of section 6388, Oregon Laws, provide that:

> (7) *Additional Agent in Certain Cities.* Any such insurance company which has qualified to transact a fire insurance business in this state and is lawfully doing such business therein may appoint one additional agent to represent such company transacting business in its own corporate name in any city of this state having a population of fifty thousand or more inhabitants according to the last federal census; provided, that any such insurance company doing business under an additional title shall be limited to one agency for each title.
>
> (8) *Annual License Fee for Additional Agent.* Any such insurance company may appoint an additional agent or agents to transact business in its own corporate name, or additional title, in any city of this state on application to the insurance commissioner and the payment of an annual license fee of five hundred dollars for each such agent.

It is the contention of the appellee that the above provisions constitute conditions precedent to the right of a foreign insurance company to engage in business in this state to the extent of the appointment of more than two agents in any city of the state having a population of 50,000 or more inhabitants according to the last federal census, and that until such conditions are complied with the foreign corporation has no power to appoint such an agent.

The application of appellant was for a license to act as third agent of a foreign fire insurance company.

In *Paul v. Virginia*, 8 Wall. 168, 19 L. Ed. 357, the plaintiff in error was convicted of attempting to act

as agent for a foreign insurance company which had not complied with a statute requiring the deposit of bonds of a specified character and amount as a condition precedent to its right to do business in Virginia.

Hooper v. State of California, 155 U. S. 648, 39 L. Ed. 297, came to this court by writ of error to review a judgment of the lower court that the plaintiff in error was guilty of the misdemeanor of procuring, for a resident of the state, insurance from a foreign insurance company that had not complied with the laws of the state. In that case it was contended that the plaintiff in error was acting as agent for a resident of the state in procuring the insurance. This contention was disposed of as follows (page 658, U. S. Rep., 301 L. Ed.):

> If the contention of the plaintiff in error were admitted, the established authority of the state to prevent a foreign corporation from carrying on business within its limits, either absolutely or except upon certain conditions, would be destroyed. It would be only necessary for such a corporation to have an understanding with a resident that in the effecting of contracts between itself and other residents of the state he should be considered the agent of the insured persons, and not of the company. This would make the exercise of a substantial and valuable power by a state government depend not on the actual facts of the transactions over which it lawfully seeks to extend its control but upon the disposition of a corporation to resort to a mere subterfuge in order to evade obligations properly imposed upon it. Public policy forbids a construction of the law which leads to such a result, unless logically unavoidable.

Nutting v. Massachusetts, 183 U. S. 553, 46 L. Ed. 324, 327, involves a conviction of negotiating unlawful insurance with a foreign insurance company, not admitted to do business in the state of Massachusetts. The law provided that:

> It shall be unlawful for any company to make any contract of insurance upon or concerning any property or interests or lives in said commonwealth or with any resident thereof or for any person as insurance agent or insurance broker to make, negotiate, solicit, or in any manner aid in the transaction of such insurance unless and except as authorized under the provisions of this act.

The law further prescribed the conditions with which foreign insurance companies were required to comply before they could do business in Massachusetts. Without compliance with said conditions, the plaintiff in error proceeded to negotiate a contract of insurance with London Lloyds, the arrangement having been made through a New York firm of insurance agents. The defendant requested the court to instruct the jury that so much of the Massachusetts statute as purported to make illegal such acts as were done by the defendant was contrary to the 14th amendment of the Constitution of the United States, and as such was unconstitutional and void. The request was refused and the court instructed the jury that upon the facts stated they would be warranted in finding the defendant guilty. The case went to the state court upon exceptions to the ruling of the trial court, which ruling was sustained and, upon being sentenced, the plaintiff in error and defendant

sued out a writ of error to this court. In the opinion by Mr. Justice Gray the court said:

> The state having power to impose conditions on the transaction of business by foreign insurance companies within its limits has the equal right to prohibit the transaction of such business by agents of such companies or by insurance brokers who are to some extent the representatives of both parties.

Citing

Hooper v. California, 155 U. S. 648, 39 L. Ed. 297, 5 Inters. Com. Rep. 610, 207.

Allgeyer v. Louisiana, 165 U. S. 578, 41 L. Ed. 832, 17 Sup. Ct. Rep. 427.

In the recent case of *Bothwell v. Buckbee Mears Co.*, 275 U. S. 274, 277, 72 L. Ed. 277, 279, this court held that a foreign insurance corporation had no constitutional right to solicit insurance in Minnesota by means of an agent present within that state until conditions precedent had been complied with, and that for an act of solicitation there the state might have punished the agent; and also the company as principal.

The instant case was instituted upon the same theory as that of *Northwestern National Insurance Co. et al. v. Fishback*, 130 Wash. 490, 228 Pac. 516, 36 A. L. R. 1507, parts of the opinion in which are to be found beginning at page 57 of appellant's brief herein. It will be noted that the opinion in that case is confined to the single question of the effect of an act limiting the number of agents an insurance company may appoint in any particular locality upon the constitutional right of an

individual to engage in the business of an insurance agent. The points of law urged in that case, as set forth in the report in A. L. R., contain no reference to the effect of the law in question upon the constitutional rights of the insurance company, and no discussion of that matter is to be found in the opinion of the court.

This is also true of the case of *Franklin Fire Insurance Co. and Espe v. Montoya*, 251 Pac. 390, in which the case of *Northwestern National Insurance Co. et al. v. Fishback*, supra, was referred to by the court as having held that a similar provision in the Washington code was not an attempt to regulate the insurance business but was merely an unwarranted restriction sought to be imposed upon the occupation of insurance agents.

II

The power of the state to impose conditions precedent to the doing of business therein by a foreign insurance company is not subject to constitutional limitation.

Section 6388, O. L. (sec. 22-c, chap. 203, General Laws of Oregon, 1917).

Paul v. Virginia, 8 Wall. 168, 19 L. Ed. 357.

Hooper v. State of California, 155 U. S. 648, 39 L. Ed. 297.

Fire Association of Philadelphia v. New York, 119 U. S. 110, 30 L. Ed. 342.

Security Mutual Life Insurance Co. v. Prewitt, 202 U. S. 246, 257, 50 L. Ed. 1013, 1018.

Swing v. Weston Lumber Co., 205 U. S. 275, 278 51 L. Ed. 799, 800.

Hanover Fire Insurance Co. v. Carr, 272 U. S. 494, 507, 71 L. Ed. 372, 379.

Argument

The right of a state to forbid a foreign insurance company from doing business therein or to prescribe any condition, however absurd or unreasonable, upon which such a corporation may be admitted to do business in the state is so well established and has been so often announced by this court that space will not be devoted to discussion of the subject, but an attempt will be made to confine the argument to the point that the provision of the Oregon laws requiring the payment of a $500 license fee by a foreign insurance corporation when applying for the appointment of a third agent to represent it in cities having 50,000 or more inhabitants according to the last federal census is a condition precedent to the right of such a foreign corporation to do business in the state to that extent, and denies no constitutional right of one seeking to be so licensed.

In *Fire Association of Philadelphia v. New York*, 119 U. S. 110, 30 L. Ed. 342, the plaintiff in error was a Pennsylvania corporation organized for the transaction of the business of fire insurance and having its principal place of business in the city of Philadelphia. It maintained an agency in the state of New York and no question was raised but that it had uniformly complied with all the requirements and conditions imposed by the laws of New York upon fire insurance companies from other states establishing and maintaining agencies in that state, except the payment of a tax upon premiums received by it in 1881 upon risks located within the state of New York, which were imposed by

force of a reciprocity provision in the New York law and a tax imposed by the state of Pennsylvania of three per centum upon the entire amount of premiums of every character and description received by insurance companies or associations in that state during the year or fraction of a year ending the 31st day of December preceding. The controversy was whether the defendant was liable to pay any tax to the superintendent of the insurance department of the state of New York upon said premiums received by it in the year 1881, and, if any, what amount. The defendant (plaintiff in error) claimed the protection of the 14th amendment. The court held that:

> This Pennsylvania corporation came into the state of New York to do business, by the consent of the state, under this act of 1853, with a license granted for a year, and has received such license annually, to run for a year. It is within the state for any given year under such license, and subject to the conditions prescribed by statute. The state, having the power to exclude entirely, has the power to change the conditions of admission at any time, for the future, and to impose as a condition the payment of a new tax, or a further tax, as a license fee. If it imposes such license fee as a prerequisite for the future, the foreign corporation, until it pays such license fee, is not admitted within the state or within its jurisdiction. It is outside, at the threshold, seeking admission, with consent not yet given. The act of 1865 had been passed when the corporation first established an agency in the state. The amendment of 1875 changed the act of 1865 only by giving to the superintendent the power of remitting the fees and charges required to be collected by then existing laws. Therefore the corporation was at all times,

after 1872, subject, as a prerequisite to its power to do business in New York, to the same license fee its own state might thereafter impose on New York companies doing business in Pennsylvania. By going into the state of New York in 1872, it assented to such prerequisite as a condition of its admission within the jurisdiction of New York. It could not be of right within such jurisdiction, until it should receive the consent of the state to its entrance therein under the new provisions; and such consent could not be given until the tax, as a license fee for the future, should be paid.

It is not to be implied, from anything we have said, that the power of a state to exclude a foreign corporation from doing business within its limits is to be regarded as extending to an interference with the transaction of commerce between that state and other states by a corporation created by one of such other states.

In *Hanover Fire Insurance Co. v. Carr*, 272 U. S. 494, 510, 71 L. Ed. 372, 380, the validity of an act imposing a tax upon the net receipts for the preceding year of an agency for a foreign corporation doing business in the state, which should be entered on the tax lists of the county, town or municipality and subject to the same return of taxation for all purposes—state, county, town and municipal—that other personal property is subject to at the place where located, which tax was to be in lieu of all town and municipal licenses, was attacked upon the ground that it denied to the complainant the equal protection of the laws under the 14th amendment of the federal constitution. The distinction between a license fee imposed as a condition precedent and a tax burden imposed after a foreign corporation has secured

the right to do business is explained by the court in the following language (page 510 U. S. Rep. 380, L. Ed.):

> In subjecting a law of the state which imposes a charge upon foreign corporations to the test whether such a charge violates the equal protection clause of the 14th amendment, a line has to be drawn between the burden imposed by the state for the license or privilege to do business in the state and the tax burden which, having secured the right to do business, the foreign corporation must share with all the corporations and other taxpayers of the state. With respect to the admission fee, so to speak, which the foreign corporation must pay to become a quasi citizen of the state and entitled to equal privileges with citizens of the state, the measure of the burden is in the discretion of the state and any inequality as between the foreign corporation and the domestic corporation in that regard does not come within the inhibition of the 14th amendment; but after its admission the foreign corporation stands equal and is to be classified with domestic corporations of the same kind.

And at page 515 U. S. Rep., 382 L. Ed.:

> The state in dealing with foreign corporations may properly and without discrimination as between them and domestic companies regulate the former by a provision that for a failure by them to comply with any valid law governing the conduct of their business in the state the license already granted may be revoked. That is a legitimate condition in the treatment of foreign companies which do not have property and home within the state. It is a police regulation. But the power thus to revoke a license for breach of a law can only be validly exercised, if the law be a constitutional one. By compliance with the valid conditions precedent, the foreign insurance company is put on a level with all other insurance companies of the same kind, domestic or foreign

within the state, and tax laws made to apply after it has been so received into the state are to be considered laws enacted for the purpose of raising revenue for the state and must conform to the equal protection clause of the 14th amendment. This conclusion is not only in accord with our previous decisions but is sustained by the reasoning in a satisfactory judgment of the court of errors and appeals of New Jersey. (*Erie R. Co. v. State*, 31 N. J. L. 531, 542-544, 86 Am. Dec. 226.)

We thus reach the question whether a tax imposed upon foreign fire, marine and inland navigation insurance companies on the net receipts of all their business, whether fire, marine, inland navigation or other risks, is a denial of the equal protection of the laws when domestic insurance companies pay no taxes on such net receipts. Under the previous decisions of the supreme court of Illinois, when the net receipts were treated as personal property and the assessment thereon as a personal property tax subjected to the same reductions for equalization and debasement, it might well have been said that there was no substantial inequality as between domestic corporations and foreign corporations, in that the net receipts were personal property acquired during the year and removed by foreign companies out of the state, and could be required justly to yield a tax fairly equivalent to that which the domestic companies would have to pay on all their personal property including their net receipts or what they were invested in. It was this view, doubtless, which led to the acquiescence by the state authorities and the foreign insurance companies in such a construction of section 30 and in the practice under it. But an occupation tax imposed upon 100 per cent of the net receipts of foreign insurance companies admitted to do business in Illinois is a heavy discrimination in favor of domestic insurance companies of the same class and in the same business which pay only a tax on the assessment of personal property

> at a valuation reduced to one-half of 60 per cent of the full value of that property. It is a denial of the equal protection of the laws. * * *

In the instant case the license fee is to be paid by a foreign corporation before it may engage in business to the extent of appointing three agents in any city of 50,000 or more inhabitants. When the Northwestern National Insurance Company obtained a license in this state said license entitled it to do business only to the extent authorized by the laws of this state and upon compliance with conditions precedent to the exercise of such right. Until such conditions are complied with such a foreign corporation has never acquired a constitutional right to do business to the extent of appointing three agents in any city of the class involved.

The argument in appellant's opening brief is directed largely to the contention (page 39):

> That once a state admits the foreign corporation within its jurisdiction, in so far as its constitutional rights are concerned, it becomes a person to the same extent that a domestic corporation is a person.

A like argument was advanced in the case of *Fire Association of Philadelphia v. New York*, supra, in which the court said (119 U. S., p. 117, 30 L. Ed., p. 346):

> The defendant, on the assumption that if it was within the jurisdiction of the state of New York, it was, though a foreign corporation, a "person," and so entitled to the benefit of the amendment, contends that it was within such jurisdiction. The argument is, that it established an agency within

the state in 1872, which it had ever since maintained; that it complied, from year to year, with all the requirements and conditions imposed by the laws of the state on foreign fire insurance companies doing business in the state; that it received from year to year certificates of authority from the superintendent of the insurance department, as provided by statute; that, under those circumstances, it was legally within the state and within its jurisdiction; that, being in the state, by permission of the state, continuously from 1872 to 1882, the state imposed on it, while there, in 1882, an unequal and unlawful burden; and that the New York act of 1865 did not come into effect as to Pennsylvania corporations until the Pennsylvania act of 1873 was passed, at which time the defendant had already been a year in the state.

But we are unable to take that view of the case.
* * *

Following which is a reference to the case of *Paul v. Virginia*, supra, including the following excerpt from the opinion of Mr. Justice Field in that case:

"Having no absolute right of recognition in other states, but depending for such recognition and the enforcement of its contracts upon their assent, it follows, as a matter of course, that such assent may be granted upon such terms and conditions as those states may think proper to impose. They may exclude the foreign corporation entirely, they may restrict its business to particular localities, or they may exact such security for the performance of its contracts with their citizens as in their judgment will best promote the public interest. The whole matter rests in their discretion." As to the power of congress to regulate commerce among the several states, the court said that, while the power conferred included commerce carried on by corporations as well as that carried on by individuals, "issuing a

policy of insurance is not a transaction of commerce." This decision only followed the principles laid down in the earlier cases of *Bank of Augusta v. Earle*, 13 Pet. 519, 588 (38 U. S. bk. 10 L. ed. 274, 307), and *Lafayette Ins. Co. v. French*, 18 How. 404 (59 U. S. bk. 15, L. ed. 451.)

The following excerpt from the opinion of the court in *Swing v. Weston Lumber Co.*, 205 U. S. 275, 278, 51 L. Ed. 799, 800, is also submitted as being in point:

> The power of the state to prohibit foreign insurance companies from doing business within its limits, or, in allowing them to do so, to impose such conditions as it pleases, is undoubted. (*Hooper v. California*, 155 U. S. 648, 39 L. ed. 297, 5 Inters. Com. Rep. 610, 15 Sup. Ct. Rep. 207; *Security Mut. L. Ins. Co. v. Prewitt*, 202 U. S. 246, 50 L. ed. 1013, 26 Sup. Ct. Rep. 619; *Chattanooga Nat. Bldg. & L. Asso. v. Denson*, 189 U. S. 408, 47 L. ed. 870, 23 Sup. Ct. Rep. 630.

In *Security Mutual Life Insurance Co. v. Prewitt*, 202 U. S. 246, 257, 50 L. Ed. 1013, 1018, the court said:

> As a state has power to refuse permission to a foreign insurance company to do business at all within its confines, and as it has power to withdraw that permission when once given, without stating any reason for its action, the fact that it may give what some may think a poor reason or none for a valid act is immaterial.

Sections 4 and 5, page 187, Laws of 1899, sections 4639, 4640, Lord's Oregon Laws, are printed in full as Appendix "C" to this brief. They permitted insurance companies to establish agencies in this state to consist of but one agent in each city, town or village to represent each title registered. Additional agents might be

appointed by paying in advance to the county wherein they were appointed a quarterly license of $100 for each additional agent so appointed.

These statutes were repealed by section 30 of chapter 203, General Laws of Oregon, 1917, and reenacted as section 22-c of that act.

The power of the state to exact such conditions has never heretofore been questioned.

Respectfully submitted,

I. H. VAN WINKLE,
Attorney General,

WILLIS S. MOORE,
Assistant Attorney General,

Attorneys for Appellant.

APPENDIX "A"

(Section 6333, Oregon Laws)

Agents' Licenses

No company, association, person or persons, authorized to transact insurance or offer indemnity contracts in this state, other than life insurance companies, and not incorporated under the laws of this state, hereinafter designated as company, shall make, write, place or cause to be made, written or placed, any policy or contract of insurance or indemnity of any kind or character, or a general or floating policy covering risks on property located in the state of Oregon, liability created by or accruing under the laws of such state, or undertakings to be performed in such state, except through their regularly commissioned and licensed resident agents, who shall countersign all policies or indemnity contracts so issued and collect the premiums therefor, to the end that the state may receive the taxes required by law to be paid on premiums collected for insurance on property or undertakings located in this state, and no person shall pay or forward any premiums or applications for insurance or in any manner secure, help or aid in the placing of any insurance, or effect any contract of insurance or indemnity upon property, liability or undertakings located in this state with any such insurer which is not authorized to transact its business in this state; provided:

* * * * *

(3) *Agent's Appointment To Be Filed With Commissioner; License Fee*—Every company duly authorized and licensed to transact insurance business, other than life insurance companies, in the state of Oregon, and lawfully doing such business therein, may in respect thereof appoint an agent or agents in each city, town or village in this state, and the name of every agent appointed in accordance with the provisions of this section, including the

classes of business he is authorized to transact for such company, shall be filed with the insurance commissioner immediately upon the making of such appointment by any such company. The insurance commissioner, if he finds the agent qualified, shall thereupon issue to each such agent a license setting forth that such agent is entitled to act for the company appointing him for the balance of the current year ending April 1, following the date of such appointment; provided, that the license issued to an established agency of any company in any city, town or village in this state may be transferred by the insurance commissioner to another agent or agency upon proper application of any such company, without exacting further fees. Every such license for each such agent representing any such company shall be renewed during the month of March in each year for the ensuing year upon proper application to the insurance commissioner by the company appointing him. The fee fixed for issuing such license shall be $2 and shall be paid to the insurance commissioner.

APPENDIX "B"

(Section 6388, Oregon Laws)

Fire Insurance

(1) *Foreign Fire Insurance Companies Not to Write Insurance Except Through Licensed Agent*—It shall be unlawful for any fire insurance company doing business in the state of Oregon to write, place or cause to be written or placed, any policy or contract for indemnity or insurance on property situated or located in the state of Oregon, except through or by the duly authorized agent or agents of such insurance company residing and doing business in this state, to whom the premium on such insurance shall be paid; provided, that this section shall not apply to direct insurance covering the rolling stock and other property belonging to and used in the

operation and maintenance of plant and business of railroad corporations or other common carriers or property in transit while in the possession and custody of railroad corporations or other common carriers and mutual fire insurance companies. At the time of the filing of the annual statement of every such company with the insurance commissioner there shall be attached thereto the affidavit of the president, manager, or chief executive officer in the United States that this section has not been violated. This section shall not apply to policies issued directly from the home office of any company organized under the laws of this state or having its home office located in this state.

(2) *"Title" Under Which Fire Insurance Is To Be Written Must Be Registered*—Every fire insurance company shall, before issuing any policy or contract for indemnity or insurance on property situated or located in the state of Oregon, file with the insurance commissioner of this state the "title" under which it proposes to write any such insurance in the state of Oregon, and such title shall be registered by the said insurance commissioner, together with the name of the insurance company filing such title, and a sample and specimen thereof shall be pasted in a book to be kept for that purpose by the insurance commissioner; and upon paying the fee as hereinafter provided and complying with all other departmental requirements, such insurance company shall be entitled to issue policies or contracts for indemnity or insurance for the one title so registered, and no more.

(3) *Filing Fee; Certificate*—Every insurance company registering a title under this act shall pay to the insurance commissioner a fee of $5 and the insurance commissioner shall then issue a certificate to the insurance company registering such title, setting forth the name of the company, and attaching to the certificate a facsimile of the title registered and filed as hereinbefore provided.

(4) *License of Fire Insurance Agent; Certificate; License Fees*—Every insurance company licensed to transact a fire insurance business in this state and lawfully doing such business therein, may, in respect thereof, establish agencies in this state, to consist of but one agent for each city, town or village in the state to represent the title registered, and additional agencies as hereinafter provided, and the name of every agent appointed, in accordance with the provisions of this section shall be filed with the insurance commissioner immediately upon the making of such appointment by any such company. The insurance commissioner shall thereupon issue to each such agent that [who] is qualified as provided in this act a certificate setting forth that such agent is entitled to act for the company appointing him for the balance of the current year ending March 31 following the date of such appointment. Every such agent now representing any such company, or who may hereafter be appointed to represent any such company, provided such agent is qualified as provided in this act, shall be relicensed during the month of March in each year for the ensuing year upon proper application to the insurance commissioner by the company appointing him. The fee fixed for issuing such certificate shall be $2 and shall be paid to the insurance commissioner; provided, that the certificate issued to an established agency of any company in any city, town or village in the state may be transferred to any agent or agency by the insurance commissioner upon proper application of any such company without exacting further fees.

(5) *Additional Title*—(a) Any insurance company authorized to transact a fire insurance business in this state in its own corporate name may file one additional title in the same manner as provided for the filing of corporate title by such companies in this act and may issue its policies under such additional title.

(b) Fees. Any such company qualifying to transact business under an additional title shall be subject to the payment of the same fees for the transaction of business under such additional title as are required of such company in the transaction of business under its corporate name, and may appoint agents to transact its business under such additional title in the same manner as provided for companies.

(c) Report. Any company transacting business under an additional title shall report to the insurance commissioner the amount of such business transacted under the additional title, for taxation and departmental purposes, in the same manner and form as such company is required to report the business transacted under its corporate name.

(6) *Appointment of Additional Agent*—Any such insurance company which is authorized to transact fire insurance in this state in its corporate title and also under an additional title may only appoint one agent to represent each such title filed in any city, town or village of this state.

(7) *Additional Agent in Certain Cities*—Any such insurance company which has qualified to transact a fire insurance business in this state and is lawfully doing such business therein may appoint one additional agent to represent such company transacting business in its own corporate name in any city of this state having a population of 50,000 or more inhabitants according to the last federal census; provided, that any such insurance company doing business under an additional title shall be limited to one agency for each title.

(8) *Annual License Fee for Additional Agent.* Any such insurance company may appoint an additional agent or agents to transact business in its own corporate name, or additional title, in any city of this state on application to the insurance commissioner and the payment of an annual license fee of $500 for each such agent.

APPENDIX "C"

(Lord's Oregon Laws)

§ 4639. Agencies May Be Established—Name of Agent to Be Filed.

Every insurance company or association having complied with section 4612 and having paid an annual license of $50, as provided in section 4634, and otherwise having fully complied with the provisions of section 4634, may, in respect thereof, establish agencies in this state, to consist of but one agent for each city, town, or village in the state to represent each title registered, as hereinbefore provided, and additional agencies as hereinafter provided; and the name of every agent appointed in accordance with the provisions of this section shall be filed with the insurance commissioner, who shall issue to each agent a certificate, setting forth that such agent is entitled to act for the company appointing him, which certificate shall continue in force until revoked, or as long as such agent continues to represent such authorized company or companies. The fee fixed for such certificate shall be $1 and shall be paid to the insurance commissioner. (L. 1899, p. 187, § 4; B. & C., § 3729; L. 1903, p. 16, § 1.)

§ 4640. Additional Agents — Payments Required, Mode of Proceeding.

Any insurance company or association may appoint additional agents in any city, town or village of this state, by paying in advance to the county wherein such additional agent is appointed a quarterly license of $100 for every such additional agent so appointed; and the proper officer of the county, upon receiving payment for such license, shall issue his receipt therefor, and the insurance commissioner, upon presentation to him of such receipt by the licensee, shall issue to such licensee a certificate setting forth that such additional agent is entitled

to act for the company appointing him. The application for the license, and the license, shall designate the name of the city, town or village for which he is appointed, and such agent must be a resident thereof and shall maintain his office there; provided, that in cities containing a population of 40,000 or more inhabitants a..y insurance company or association may appoint two agents under the provisions of section 4639. (L. 1899, p. 187, § 5; B. & C., § 3730.)